

Message Text

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INFO AMEMBASSY CANBERRA

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LIMITED OFFICIAL USE SECTION 01 OF 06 OECD PARIS 36277

PASS TREASURY, FEDERAL RESERVE (PUCKETT), SEC (REILLY)

E.O. 11652: N/A

TAGS: EFIN, EINV, OECD

SUBJECT: NOV. 29-DEC. 1 SESSION OF COMMITTEE FOR
INVISIBLE TRANSACTIONS

REF: (A) STATE 289787, (B) TIR/A(76)5,
(C) DAF/INV/76.38, (D) DAF/INV/76.39,
(E) DAF/INV/76.40, (F) DAF/INV/76.37,
(G) DAF/INV/76.34, (H) DAF/INV/76.42,
(I) DAF/INV/76.26, 1ST REVISION,
(J) OECD PARIS 30936, (K) STATE 158363

1. BEGIN SUMMARY: INVISIBLES COMMITTEE (IC) EXAMINED
NUMEROUS AUSTRALIAN AND NEW ZEALAND RESERVATIONS TO
CAPITAL MOVEMENTS CODE (CMC), WITH COMPARATIVELY GREATER
SYMPATHY FOR LATTER IN VIEW OF INDICATION THAT GNZ AIMS
AT EVENTUAL LIBERALIZATION WHEN BALANCE OF PAYMENTS PER-
MITS WHILE GOA REPS IMPLIED FUNDAMENTAL ATTACHMENT TO
CAPITAL CONTROLS. AUSTRALIAN CASE NOT HELPED BY DESIRE
ALSO TO MAINTAIN DEROGATION LODGED IN 1973 ON INWARD
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RPT INWARD FLOWS, AND AUSSIES WERE SAVED FROM IMMEDIATE
IC REFUSAL TO APPROVE ITS MAINTENANCE ONLY BY VIRTUE OF

JUST ANNOUNCED DEVALUATION WHICH SOME MEMBERS FELT MIGHT BE FOLLOWED BY WAVE OF CAPITAL INFLOWS. US MEMBER RAISED PRESSURE A NOTCH ON FRENCH REFUSAL TO AUTHORIZE INDIVIDUAL INWARD DIRECT INVESTMENTS. IC POSTPONED EXTENSIVE EXCHANGE OF VIEWS ON NEW ZEALAND FISHING VESSEL TAX. DRAFT REPORT ON EXAMINATION OF DANISH RESERVATIONS CONSIDERED BUT NOT FINALIZED. DISCUSSION OF INTERPRETATION OF ARTICLES 9 AND 10 OF OECD CODES ENTAILED PRELIMINARY EXCHANGES ON US VIEW OF LEGAL INTERPRETATION. INTERESTING AND POSSIBLY SIGNIFICANT POSITIVE NOTE SOUNDED BY SWEDISH REP WHO INDICATED SCANDINAVIANS ARE UNDERTAKING FUNDAMENTAL REVIEW OF EFFECTIVENESS OF CAPITAL CONTROLS--I.E., POSSIBLY WITH VIEW TOWARD REMOVING THEM. SEE ACTION REQUESTED IN PARAS 6 AND 8. END SUMMARY.

2. IC HELD 122ND SESSION FROM NOVEMBER 29 TO DECEMBER 1 UNDER ABLE CHAIRMANSHIP OF MARTIN-WITKOWSKI (FRANCE). DISCUSSIONS HAMPERED SOMEWHAT BY LATE APPEARANCE OF MANY DOCUMENTS. NUMBER OF MEMBERS CONTINUED TO DISTINGUISH THEMSELVES BY NEAR SILENCE OVER THREE-DAY SESSION. BULK OF MEETING DEVOTED TO FIRST EXAMINATION OF AUSTRALIAN AND NEW ZEALAND RESERVATIONS TO CMC (FORMER ADHERED IN 1971 AND LATTER IN 1973), TO CONSIDERATION OF AUSTRALIAN DESIRE TO MAINTAIN LIMITED VERSION OF ITS DEROGATION TO CMC UNDER ARTICLE 7(B) FOR EIGHT TYPES OF INWARD CAPITAL MOVEMENTS, AND TO IC CONCLUSIONS ON POINTS TO BE REFLECTED IN DRAFT REPORTS BY SECRETARIAT.

3. AUSTRALIAN RESERVATION TO CMC (REF C)

AGAINST BACKGROUND OF DEVALUATION ANNOUNCED PREVIOUS DAY, AUSTRALIAN REPS ELABORATED ON GENERAL POLICY OF RESTRICTING OUTWARD CAPITAL FLOWS AND ENSURING THAT CAPITAL INFLOWS, WHICH ARE NECESSARY COUNTERPART OF STRUCTURAL DEFICIT ON CURRENT ACCOUNT, ARE COMPOSED OF "DESIRABLE" FLOWS--THE NORMATIVE DISTINCTION BEING MADE BASICALLY BETWEEN LONG AND SHORT TERM INFLOWS, WITH SPECIAL FACTORS GOVERNING INWARD DIRECT INVESTMENT AND LIMITED OFFICIAL USE
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REAL ESTATE PURCHASES. IN ADDITION TO BALANCE OF PAYMENTS CONSIDERATIONS, AUSTRALIA RESTRICTS OUTWARD FLOWS BECAUSE OF INSUFFICIENT DOMESTIC SAVINGS, AND GOA REPS SAID THAT SUCH "STRUCTURAL" CONSIDERATIONS PRECLUDED AN INDICATION OF WHEN THEY MIGHT MOVE TOWARD LIBERALIZATION, WHICH WAS CHARACTERIZED AS VERY LONG TERM GOAL (IF IT IS A GOAL AT ALL). GIVEN ADVERSE AUSTRALIAN PAYMENTS POSITION, LATE ISSUE OF DOCUMENT AND FACT THAT THIS WAS FIRST EXAMINATION, OTHER IC MEMBERS WERE NOT PREPARED TO FOLLOW UP US MEMBER'S QUESTIONING OF BASIC ILLIBERAL

GOA STANCE. IC INTEREST MAINLY DIRECTED AT PERSUADING
AUSTRALIA TO LIMIT RESERVATIONS WHERE GOA PRACTICES IN

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FACT ARE LESS RESTRICTIVE THAN WORDING SUGGESTS, BUT GOA
REPS CONSISTENTLY DECLINED TO REDRAFT RESERVATIONS ON
GROUNDS THAT THIS WOULD REDUCE FLEXIBILITY AND AROUSE
POLITICAL OPPOSITION. ANOTHER FACTOR CITED BY AUSTRA-
LIAN REPS WAS DESIRE TO AVOID AN IMPLICATION THAT FOREIGN
EXCHANGE WOULD ALWAYS BE AVAILABLE FROM CENTRAL BANK FOR
TRANSACTIONS IN VIEW OF ITS PECULIAR ROLE IN BANKING
SYSTEM AS LAST RESORT PROVIDER OF FOREIGN EXCHANGE (I.E.,
FOREIGN EXCHANGE MARKET IN TRADITIONAL SENSE DOES NOT
EXIST IN AUSTRALIA). HIGHLIGHTS EMERGING FROM DISCUS-
SION OF SPECIFIC RESERVATIONS FOLLOW:

A. OUTWARD FLOWS

--DIRECT INVESTMENT (LIST A, I/B): CRITERIA CITED
IN DOCUMENT ARE APPLIED PERMISSIVELY. AUTHORITIES

SEEK TO PRECLUDE INVESTMENTS OF SPECULATIVE NATURE,
BOGUS TRANSACTIONS WHICH ARE ACTUALLY PORTFOLIO,
AND THOSE WHICH WOULD NOT BE WELCOMED BY HOST
COUNTRY.

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--REAL ESTATE PURCHASES (LIST B, VI/B1): \$10,000
LIMIT ON INDIVIDUAL IN ANY 12-MONTH PERIOD IS
ACTUALLY TOTAL CEILING. ONLY WAY TO GET AROUND
THIS VERY RESTRICTIVE LIMIT IS FOR FAMILY MEMBERS
TO POOL ALLOWANCES.

ISSUE OR PUBLIC SALE/INTRODUCTION ON DOMESTIC
MARKET OF FOREIGN SECURITIES (LIST B, III/B1;
LIST A, III/B2): EXCEPTIONS GRANTED (RARELY) FOR
CIRCUMSTANCES, NOT COUNTRIES--I.E., NO SPECIAL
CONSIDERATION GIVEN LDC ISSUERS. IF ASKED, GOA
WOULD HAVE TO CONSIDER ISSUE OF IBRD BONDS IN
LIGHT OF ITS OBLIGATIONS AS A MEMBER.

--PURCHASE ABROAD BY RESIDENTS OF QUOTED, UNQUOTED
AND COLLECTIVE INVESTMENT SECURITIES (LIST A,
IV/B1; LIST B, IV/B3; LIST A, V/B1): GOA REPS
WERE INVITED TO WITHDRAW RESERVATIONS IN LIGHT
OF GENEROUS FREE AMOUNTS (\$10,000 FOR INDIVIDUALS,
\$1,000,000 FOR INSTITUTIONS) AND ADMITTED ABSENCE
OF PRESSURE FROM INVESTORS, BUT THEY DECLINED ON
GROUNDS THAT REGULATIONS PERMIT VETTING OF "SIDE
ISSUES" IN TRANSACTIONS AND THAT FLEXIBILITY
NEEDED.

--SALE IN AUSTRALIA BY NON-RESIDENTS OF FOREIGN
QUOTED, UNQUOTED AND COLLECTIVE INVESTMENT
SECURITIES (LIST A, IV/A2; LIST B, IV/A4; LIST A,
V/A2): MAIN REASON WHY THERE ARE NO MINIMUM FREE
AMOUNTS FOR THESE ITEMS IS THAT GOA WANTS TO AVOID
SIDE BY SIDE LISTING WITH DOMESTIC SECURITIES.

--COMMERCIAL CREDITS (LIST A, VIII (I)/B; LIST B,
VIII(II)/B): GOA REPS WERE INVITED TO REMOVE
LIST A RESERVATION SINCE IC FELT REMARK TO ITEM
PROVIDED GOA SUFFICIENT SCOPE TO CHECK TERMS OF
PAYMENT. SECRETARIAT PURSUING THIS POINT
BILATERALLY.

--FINANCIAL CREDITS AND LOANS (LIST B, IX/B) AND
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SURETIES AND GUARANTIES (LIST A, XIII/B): GOA
REPS INDICATED THAT RESERVATION TO SURETIES AND
GUARANTIES (WHICH MEMBERS RARELY INVOKE SINCE
ITEM APPLIES ONLY TO UNDERLYING OPERATION WHICH
MEMBER HAS AUTHORIZED) NECESSARY BECAUSE OF SYSTEM
NOTED ABOVE WHEREBY CENTRAL BANK AUTHORIZATION OF
TRANSACTION IMPLIES OBLIGATION TO PROVIDE NECESSARY
FOREIGN EXCHANGE.

B. INWARD FLOWS

--DIRECT INVESTMENT (LIST A, I/A): IC APPRECIATED
POLITICAL SENSITIVITIES IN AUSTRALIA AND CONCEN-
TRATED ON URGING A LIMITING REMARK TO EXISTING
FULL RESERVATION IN VIEW OF RELATIVELY LIBERAL
APPLICATION OF RULES SET FORTH IN APPENDIX B TO
ANNEX I OF REF C. GOA REPS SAID LIMITING REMARK
WOULD "TAKE A BOOK" AND EFFORT WOULD NOT BE
FRUITFUL.

--REAL ESTATE PURCHASE OR BUILDING (LIST B,
VI/A1): IC ACCEPTED CASE FOR LODGING OF THIS

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NEW RESERVATION. GOA REPS SAID THAT RESALE RESTRICTIONS INDICATED FOR CERTAIN PURCHASES APPLIED ONLY TO THESE ITEMS AND WERE KNOWN IN ADVANCE TO PURCHASER.

--ISSUE OF DOMESTIC BONDS ON FOREIGN MARKET (LIST B, III/A1(B) AND FINANCIAL CREDITS AND LOANS (LIST B, IX/A): WHILE GOA CONSIDERS ITS CITIZENS TO BE UNLIKELY TO BREACH CITED GUIDELINES GOVERNING (LIBERAL) GRANTING OF PERMISSION FOR SUCH BORROWING, AUSTRALIAN REPS DID NOT THINK SUGGESTED EX POST CHECK COULD BE SUBSTITUTED FOR CURRENT EX ANTE APPROACH.

4. AUSTRALIAN DEROGATION TO CMC (REF D)

GOA REP REVIEWED BACKGROUND OF LODGING OF DEROGATION IN 1973 UNDER ARTICLE 7(B) ON EIGHT CATEGORIES OF INWARD PORTFOLIO FLOWS, EMPHASIZING THAT: (A) SCOPE OF DEROGATION WOULD BE LIMITED TO THOSE SECURITIES WITH ORIGINAL LIMITED OFFICIAL USE
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MATURITY OF TWO YEARS OR LESS AND WHICH HAVE LESS THAN SIX MONTHS TO RUN; (B) SUCH TRANSACTIONS ARE REALLY SHORT TERM AND AS SUCH THEIR INCLUSION IN CMC IS ACCIDENT OF CODE'S DRAFTING; AND (C) SMALL COUNTRY HAS GREAT DIFFICULTY IN "CLEANING UP THE MESS" IF FORCED TO ACT AFTER THE FACT INSTEAD OF PREVENTING SPECULATIVE INFLOWS IN THE FIRST PLACE. HE ALSO SAID THAT GOA HAD CONSIDERED REMOVING BARRIERS TO SHORT TERM INFLOWS AS ALTERNATIVE TO DEVALUATION. US MEMBER MADE STRONG STATEMENT THAT AUSTRALIAN SITUATION IN NO WAY CORRESPONDED TO PRE-REQUISITES OF ARTICLE 7(B), WHICH IN THIS CASE WOULD REQUIRE EVIDENCE THAT AUTHORITIES ARE LOSING CONTROL OF MONETARY AGGREGATES AS RESULT OF CAPITAL INFLOWS; IN FACT, IMPACT OF EXTERNAL TRANSACTIONS HAS BEEN NEGATIVE, AND IT IS CLEAR THAT MAJOR THREAT TO MONEY SUPPLY (WHICH APPEARS TO BE UNDER CONTROL AT PRESENT) IS DOMESTIC PUBLIC SECTOR DEFICIT. IN SUBSEQUENT DISCUSSION, GOA REP ADMITTED THAT THERE WOULD HAVE BEEN NO LEGAL CASE FOR CONTINUED MAINTENANCE OF DEROGATION IN ABSENCE OF DEVALUATION BUT THAT REALIGNMENT DID IN FACT RAISE THREAT OF INFLOWS. SEVERAL IC MEMBERS SUGGESTED DELAYING FINAL IC CONSIDERATION FOR SIX MONTHS TO OBSERVE DEVELOPMENTS. US MEMBER DREW DISTINCTION BETWEEN IMMEDIATE SURGE OF INFLOWS REFLECTING REVERSAL OF

SPECULATION ON DEVALUATION, WHICH IN THEORY COULD POSE SHORT TERM PROBLEM FOR MONETARY MANAGEMENT, AND ALLEGED THREAT OF FURTHER SIGNIFICANT INFLOWS WHICH WOULD ASSUME MASSIVE PROPORTIONS ONLY IF SPECULATION ON POSSIBLE REVALUATION DEVELOPED. LATTER CASE WOULD BE HIGHLY UNLIKELY AND CITING ITS POSSIBILITY COULD NOT SERVE AS BASIS FOR CONTINUED DEROGATION, PARTICULARLY SINCE SUCH CONCERN WOULD CONTRADICT PART OF REASONS GIVEN FOR MAINTAINING RESERVATIONS ON OUTWARD FLOWS (I.E., "PROTECTION" OF BALANCE OF PAYMENTS). THUS HE COULD ACCEPT ONLY SHORT DELAY. IC AGREED TO RE-EXAMINE SITUATION AT FIRST MEETING IN 1977.

5. NEW ZEALAND RESERVATIONS TO CMC (REF E)

GNZ REP (LANG) INTRODUCED DEFENSE OF MAINTENANCE OF 16 NEW ZEALAND RESERVATIONS WITH EXCELLENT STATEMENT WHICH LIMITED OFFICIAL USE
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WAS NOTABLE FOR FOLLOWING POINTS:

--GNZ INCREASINGLY RESORTING TO ADJUSTMENT OF EXCHANGE RATE RATHER THAN CONTROLS AS MEANS OF PROMOTING EXTERNAL BALANCE;

--NOTWITHSTANDING ABOVE, DEMAND MANAGEMENT MUST BEAR BRUNT OF ADJUSTMENT PROCESS; AND

--CURRENT PAYMENTS DEFICIT, WHICH IS RESULT OF EARLIER POLICY ACTIONS BASED ON EXCESSIVE OPTIMISM RE COURSE OF EXTERNAL DEMAND, SHOULD DIMINISH IN RESPONSE TO EFFORTS TO REDUCE PUBLIC SECTOR DEFICIT, BUT WOULD NOT BE SMALLER THAN \$400 MILLION IN YEAR TO MARCH 1978.

LANG INDICATED THAT GNZ HOPED TO REMOVE MOST CONTROLS (MAINLY ON OUTWARD FLOWS) WHEN BALANCE OF PAYMENTS STABILIZED, I.E., ACHIEVED AND MAINTAINED EQUILIBRIUM FOR A MULTI-YEAR PERIOD. OFF THE RECORD, HE ALSO ESSENTIALLY SAID THAT THE PRESENT GOVERNMENT'S POLICIES ARE MORE CONDUCIVE TO LIBERALIZING CONTROLS FROM BOTH

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POLITICAL AND ECONOMIC PERSPECTIVE (E.G., PREVIOUS
GOVERNMENT GROSSLY OVERSTIMULATED ECONOMY). IC REACTED
FAVORABLY TO THIS CANDID PRESENTATION, AND COMMENTS
FREQUENTLY COMPARED NZ AND AUSTRALIAN CASES TO LATTER'S
DETRIMENT. BUT, TO BE FAIR TO AUSSIES, GNZ PRACTICES
WERE SEEN TO BE MORE AD HOC AND THUS MORE SUSCEPTIBLE
TO NORMATIVE JUDGMENT THAN THOSE OF GOA, WHOSE STANDARDS
SEEM TO BE MORE EXPLICIT. POINTS ON SPECIFIC RESERVA-
TIONS FOLLOW:

A. OUTWARD FLOWS

--DIRECT INVESTMENT (LIST A, I/B): CRITERIA IS
WHETHER PROPOSED INVESTMENT ABROAD IS LIKELY TO BE
PROFITABLE AND "GOOD FOR NEW ZEALAND."

--REAL ESTATE (LIST B, VI/B1): APPLICATIONS
CAREFULLY SCRUTINIZED BUT AUTHORIZED FOR GENUINE
SECOND HOME.

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--ISSUE/INTRODUCTION OF FOREIGN SECURITIES ON
DOMESTIC MARKET (LIST B, III/B1; LIST A, III/B2):
CLOSED CIRCUIT SYSTEM EXISTS FOR FOREIGN SECURI-

TIES HELD PRIOR TO JUNE 1966. RESIDENTS CAN
UTILIZE SUBSCRIPTION RIGHTS TO NEW ISSUES VIA
DIVIDENDS ACCUMULATED ABROAD AND NEED NOT SELL
STOCK DIVIDENDS.

--PURCHASE BY RESIDENTS OF FOREIGN QUOTED,
UNQUOTED AND COLLECTIVE INVESTMENT SECURITIES
(LIST A, IV/B1; LIST B, IV/B3; LIST A, V/B1)
AND SALE BY NON-RESIDENTS IN NEW ZEALAND OF SAME
(LIST A, IV/A2; LIST B, IV/A4, LIST A, V/A2):
IC QUESTIONS MAINLY PERTAINED TO CLOSED CIRCUIT
NZ MARKET FOR FOREIGN SECURITIES.

--FINANCIAL CREDITS AND LOANS (LIST B, IX/B): IC
INTERESTED MAINLY IN ABSENCE OF RESERVATION ON
OUTWARD TRADE CREDITS. GNZ REP SAID DIFFICULTY IN
DETERMINING NORMAL COMMERCIAL PRACTICE RARELY
ARISES SINCE CREDIT UP TO SIX MONTHS FREELY
GRANTED AND SINCE THE FEW REQUESTS FOR LONGER
TERMS PERTAIN TO CAPITAL GOODS AND ARE JUSTIFIED.

B. INWARD FLOWS

--DIRECT INVESTMENT (LIST A, I/A): INFORMAL
SLIDING SCALE IS APPLIED BY OVERSEAS INVESTMENT
COMMISSION, VIZ., 25 PERCENT FOREIGN PARTICIPATION
IS AUTOMATICALLY PERMITTED, 40 PERCENT FOR PRO-
JECTS OF MARGINAL INTEREST TO GNZ, UP TO 100 PER-
CENT IF PROJECT OF GREAT INTEREST. WHILE REGS
DELIBERATELY REFRAIN FROM SECTORAL CRITERIA,
CERTAIN SECTORS (E.G., AGRICULTURE) WOULD NOT BE
CONSIDERED TO BENEFIT GREATLY FROM FOREIGN EXPERT-
ISE, WHICH GNZ IN GENERAL SEEKS.

--REAL ESTATE PURCHASE OR BUILDING (LIST B,
VI/A1): LITTLE DISCUSSION OF THIS LIMITED
RESERVATION SINCE ITS SCOPE IS CLEAR AND FAIRLY
NARROW.

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--PURCHASE BY NON-RESIDENTS OF QUOTED, UNQUOTED
AND COLLECTIVE INVESTMENT SECURITIES (LIST A,
IV/A1; LIST B, IV/A3; LIST A, V/A1): THIS
RESERVATION APPLIES ONLY TO FOREIGN SECURITIES,
AND IC HAD NO COMMENTS.

6. CHANGES IN MEMBERS' REGULATIONS

A. NEW ZEALAND FISHING VESSEL TAX (REF F): DISCUSSION
WAS BRIEF IN VIEW OF LATE APPEARANCE OF NEW ZEALAND NOTE,

LACK OF SECRETARIAT NOTE, AND DESIRE OF REP OF JAPAN
(WHICH PRIMARY VICTIM OF TAX) TO DELAY CONSIDERATION.
MEMBERS AGREED ON IMPORTANCE OF FISHING CONSERVATION
BUT MOST WERE UNCONVINCED BY GNZ ARGUMENT. IC AGREED
TO RESUME DISCUSSION AFTER MEMBERS (A) HAD OPPORTUNITY
TO DISCUSS ISSUE WITH COLLEAGUES ON MARITIME AND
FISHERIES COMMITTEES; (B) COULD OBTAIN INFORMATION ON
THEIR OWN PAST PRACTICES; AND (C) HAD BENEFIT OF VIEW
OF OECD LEGAL ADVISOR.

B. POSITION OF PORTUGAL UNDER TWO OECD CODES. SECRET-
ARIAT REP (SCHLEPEGRELL) IS GOING TO LISBON FOR CONSUL-

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TATIONS ON THIS QUESTION. IC WILL DISCUSS STATUS AT
INITIAL MEETINGS OF 1977.

C. FRENCH CONTROL OF INWARD DIRECT INVESTMENT. US REP
TOOK ADVANTAGE OF REITERATION OF CHATEAU-MARGAUX AND
GRINGOIRE-BROSSARD CASES IN WORKING DOCUMENT CIRCULATED

FOR THIS MEETING (COPY MAILED EUR/RPE/GELBARD AND TREASURY/MACKOUR) TO INQUIRE WHETHER CONTINUED "NON-APPROVAL" WAS IN FACT TANTAMOUNT TO REFUSAL AND WHETHER FRENCH REP COULD DENY PRESS REPORTS (THAT GOF HAD ACTUALLY REFUSED--AT LEAST FOR CHATEAU-MARGAUX). FRENCH ALTERNATE DODGED QUESTION, SAYING THERE HAD BEEN NO CHANGE IN STATUS OF APPLICATIONS SINCE OCTOBER MEETING, BUT INDICATED THAT GOF HAD NO REAL POWER TO PREVENT EXCHANGE OF FOREIGN OWNERSHIP IN CASES SUCH AS GRINGOIRE-BROSSARD SINCE TRANSACTION COULD TAKE PLACE OUTSIDE FRANCE BETWEEN NON-RESIDENTS. (COMMENT: OTHER IC MEMBERS EVIDENCED LITTLE DESIRE TO PERSUADE FRENCH TO COMPLY WITH CMC, AT LEAST TO EXTENT OF CITING REMARK II TO ITEM I OF ANNEX A. HOWEVER, US MEMBER PLANS TO MAKE LIMITED OFFICIAL USE
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FURTHER EFFORT AT NEXT MEETING. QUESTION OF RESTRICTIONS ON DISINVESTMENT NOT RAISED, BUT US MEMBER PLANS TO TAKE IT UP WHEN IC CONSIDERS GENERAL SUBJECT OF INDIRECT OBSTACLES AND DISINCENTIVES TO CAPITAL MOVEMENTS AT LATER MEETING NEXT YEAR. ADVISE IF THERE ARE ANY OBJECTIONS TO THIS PROPOSED LINE.)

D. FEDERAL TRADE COMMISSION ORDER FOR DIVESTITURE OF AIRCO BY BOC INTL. UK MEMBER NOTED AMICUS CURIAE BRIEF FILED BY HMG WITH US COURT OF APPEALS, AS REPORTED IN WORKING DOCUMENT. HE SAID HMG FEELS THAT FTC FINDING IS BASED ON CONSIDERATIONS OTHER THAN DOMESTIC LAW BUT DID NOT CITE SPECIFIC CONCERNS. US MEMBER CONCURRED IN HIS SUGGESTION THAT SECRETARIAT LOOK INTO QUESTION AND REPORT BACK, KEEPING IN MIND THAT CASE NOT YET DECIDED.

E. OTHER CHANGES. RECENT SPANISH AND SWEDISH MODIFICATIONS OF CONTROLS WILL BE NOTIFIED TO OECD SHORTLY.

7. REPORT ON FOURTH EXAMINATION OF DANISH RESERVATIONS TO CMC (REF G). DANISH ALTERNATE NOTED THAT HIS AUTHORITIES ARE STILL EXAMINING POSSIBILITY OF WITHDRAWING RESERVATIONS ON INWARD DIRECT INVESTMENT AND REAL ESTATE TRANSACTIONS (PARAS 3 AND 4 OF REF G). IN VIEW OF LACK OF DEFINITIVE DANISH RESPONSE TO BRACKETED TEXT IN PARA 17, SOME IC MEMBERS UNWILLING TO FINALIZE REPORT WHICH WILL THUS BE RECONSIDERED AT NEXT SESSION.

8. INTERPRETATION OF ARTICLES 9 AND 10 (REF H). US PRESENTED ARGUMENT PROPOSED IN PARA 6 OF REF J. HE CHALLENGED OECD LEGAL SERVICE VIEW (PARA 5 OF REF H) THAT WORD "SUBJECT" IN ARTICLE 9 MEANS "SUSCEPTIBLE" TO ANY DEGREE OF LIBERALIZATION (THIS VIEW WOULD CONFINE SCOPE OF ARTICLE 9 TO ANNEX A ITEMS AS LIMITED BY REMARKS IN ANNEX, IN CONTRAST TO IMPOSING NON-DISCRIMINATORY

OBLIGATIONS ON ENTIRE RANGE OF ITEMS WHENEVER LIBERALIZED
TO SLIGHTEST DEGREE AS IN US INTERPRETATION). HE TOOK
STRONG EXCEPTION TO LEGAL SERVICE VIEW IN PARA 6 THAT
LODGING OF RESERVATION MEANS THAT MEASURES COVERED BY
RESTRICTION ARE NOT SUSCEPTIBLE OF BEING "TAKEN" UNDER
MEANING OF ARTICLE 2(A), ARGUING THAT RESERVATIONS DO
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NOT REMOVE THE MEASURES COVERED FROM THE PURVIEW OF 2(A)
BUT MERELY SUSPEND TEMPORARILY THE OBLIGATION TO

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EB-07 FRB-03 INR-07 IO-13 NEA-10 NSAE-00 USIA-06
OPIC-03 SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 AGRE-00
OMB-01 SEC-01 XMB-02 NSC-05 SS-15 STR-04 L-03 FTC-01
JUSE-00 OIC-02 /117 W

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INFO AMEMBASSY CANBERRA
AMEMBASSY COPENHAGEN
AMEMBASSY WELLINGTON
USMISSION EC BRUSSELS

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LIBERALIZE. FRENCH SUGGESTED THAT ARTICLE 4 EXEMPTED
ALL EC PRACTICES FROM CODES. US MEMBER QUESTIONED
WHETHER "MULTILATERAL INTERNATIONAL AGREEMENT" APPLIES
TO EC, AND BELGIAN REP POINTED OUT THAT ARTICLE 10 HAD
NO MEANING IF EC CONSTRUED TO FALL UNDER ARTICLE 4. IC

WILL CONTINUE DISCUSSION AT INFORMAL SESSION JANUARY 31
PRECEDING NEXT MEETING. ACTION REQUESTED: REACTION
TO POINTS RAISED ABOVE.

9. FUTURE ACTIVITIES AND WORK PROGRAM. FIRST IC MEET-
ING IN 1977 WILL CONCENTRATE ON DRAFT REPORT ON EXAMINA-
TION OF DANISH, AUSTRALIAN AND NEW ZEALAND RESERVATIONS
TO CMC, AND POSSIBLY HAVE SOME CONSIDERATION OF SITUA-
TION OF GREECE AND PORTUGAL. NETHERLANDS RESERVATIONS
WILL PROBABLY BE EXAMINED AT SECOND MEETING, AND PERHAPS
ITALIAN DEROGATIONS TO BOTH CODES. AGREEMENT TO INCREASE
IC FOCUS ON GENERAL ISSUES WILL BE REFLECTED IN
DEVOTION OF ENTIRE DAY TO INFORMAL DISCUSSION OF
ARTICLE 9/10 QUESTION PRIOR TO NEXT MEETING, WHILE MARCH
MEETING WILL TAKE UP "EFFECTIVENESS OF RESTRICTIONS" ON
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CAPITAL MOVEMENTS ON THE BASIS OF PAPER TO BE FURNISHED
BY SWEDISH ALTERNATE. LATTER SUBJECT IS INTERESTING
DEVELOPMENT INASMUCH AS THERE ARE SOME INDICATIONS THAT
SCANDINAVIAN EXCHANGE CONTROLLERS ARE ASKING THEMSELVES
FUNDAMENTAL QUESTIONS RE EFFICACY OF THEIR CAPITAL CON-
TROLS. SUBSEQUENT GENERAL SUBJECTS WILL INCLUDE FINANC-
ING OF INWARD DIRECT INVESTMENT (REF I), ON WHICH IC HAS
STILL TO DRAW CONCLUSIONS, AND INDIRECT OBSTACLES OR
DISINCENTIVES TO CAPITAL MOVEMENTS. EXAMINATION
OF RESERVATIONS ON ITEM RATHER THAN COUNTRY BASIS INTER-
ESTS SEVERAL IC MEMBERS, AND THIS IS RELATED TO INTENTION
EVENTUALLY TO REDRAFT IN A UNIFORM PATTERN RESERVATIONS
TO INWARD DIRECT INVESTMENT (ITEM I/A).

10. NEXT MEETING WILL BEGIN WITH INFORMAL SESSION
JANUARY 31 AND PLENARY SESSIONS ON FEBRUARY 1 AND 2.
TURNER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMMITTEE MEETINGS, MEETING REPORTS, INVESTMENT OPPORTUNITIES, FINANCIAL PROGRAMS, INVISIBLES (BALANCE OF PAYMENTS), CAPITAL FLOWS
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Copy: SINGLE
Draft Date: 08 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
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Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
Disposition Event:
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Previous Handling Restrictions: n/a
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04 MAY 2006

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